

23 August 2004

Mr. Bill McCord, Planner
Department of Growth and Environmental Management
Development Services Division
3401 West Tharpe Street
Tallahassee, FL 32303

RECEIVED

AUG 24 2004

Growth & Environmental Management
INTAKE CHD
2:48

Re: Summerfield PUD Concept Plan – 4910 North Monroe Street

Dear Mr. McCord:

I would like to once again submit comments for the DRC Review of the Summerfield PUD that was continued from 4 August 2004 for the proposed rezoning of 108 acres of the property at 4910 N. Monroe Street.

There are significant problems with rezoning the property as requested by the applicants and my objections are outlined below. There are clearly many environmental constraints with this site that must be considered as part of the rezoning decision.

1) Unpermitted Alteration of Open Basin to Lake Jackson

The status and circumstances surrounding certification of the new closed basin to Lake Jackson of the northern 55 acres of the property remain suspicious and need to be investigated more closely. This newly created unnamed basin was formerly an open basin connected by a watercourse to Little Lake Jackson (and Lake Jackson) prior to unpermitted dredge and fill activities that occurred in August 2003, just prior to the initial application for a land use change in November 2003. These unpermitted pre-development alterations not only severed a watercourse to close the basin but changed the elevation at the rear of the pasture in order to enlarge the basin (i.e., make it bigger than it ever was) so it would meet the criteria that allows the Comp Plan to self-amend.

The County's position in accepting the property owner's explanation of these alterations, that these activities were simply alterations to existing topography conducted as part of this site's ongoing farm operations, is legally questionable and should be reconsidered. Regardless of the historic land use or claims that this alteration somehow provides a "net benefit" to Lake Jackson, the County should have enforced this blatant violation of jurisdictional wetland rules and the County's EMA. If you look carefully at the alteration that was done last year, it went well beyond simply filling a ditch, but significantly altered the topography in that basin far beyond what is visible on historic aerial photos back to the 1940's. In other words, they did not "restore" the basin to the original topography by filling the ditch in the pasture but created new conditions. Although the property was formerly a dairy farm, it is no longer used for grazing and has

not had cows on it for many years. The large area of standing water that they created by building this berm clearly does not enhance their ability to hay the property. Therefore, the claim that the activity was agricultural in nature is false and was really a preparation for residential development. The timing of the berm construction, just two months prior to application for a land use change, is strong evidence of the real intention. The intention of this unpermitted work is clear, enhance the probability that an engineer will certify the basin as closed to Lake Jackson, thereby increasing the number of units, etc. Therefore, without significant and PERMITTED alterations to the jurisdictional wetland, the 55 acres in question are NOT in a closed basin to Lake Jackson and the developer should not be allowed benefit from an illegal act and develop at the intensity allowed for a closed basin. In fact, the County should send the property owner a Notice of Violation of the EMA and require that the berm be removed as soon as possible.

2) Open Space Requirement

This PUD should follow the precedent set by the Lakeside subdivision just to the north where the County required the developer to maintain one-half of the subdivision land area (31 acres) in a large block that surrounds the clustered housing. Likewise, for the Summerfield PUD, there are clear benefits to respecting the current land use requirements. The large acreage of the property in Lake Protection translates to a much lower density of residential units than currently proposed by the developer and a significant proportion of the land designated as open space (especially if those units are clustered). For maximum protection of environmental features on the northern portion of the property (including wetlands, an extensive grove of large live oaks, and a habitat linkage area from Little Lake Jackson to Lake Jackson) the open space should consist of one large block of contiguous habitat (approximately 23 acres), rather than allowing the developer to split the required open space into small, fragmented portions of little or no ecological value (see attached). In addition, there are Comp Plan policies that require the preservation of environmentally sensitive features on the site and this is currently not part of the plan.

3) Lake Protection and Allowable Density

Currently, the land use category for the northern 55 acres of the property is Lake Protection and the other 53 acres is Residential Preservation. The entire 108 acres is zoned Lake Protection. The applicant is requesting Mixed Use zoning for the entire 108 acres. Mixed Use would allow maximum intensity residential development (duplexes, multi-family, condo-style) with commercial and retail along U.S. 27. The developer should be required to limit residential housing density in Lake Protection to 1 unit per 2 acres or 2 units per acre clustered on 40% of the LP-designated area (an overall density of 0.8 units per acres for the entire LP designated area). Therefore, the number of units should not exceed those allowed under current Lake Protection zoning and with no commercial development along or adjacent to U.S. 27 and no multifamily housing (e.g., apartment buildings, duplexes, etc.).

4) Traffic/Canopy Road Access Issue

The Comprehensive Plan Policies for Canopy Roads (Policy 3.4.10) clearly applies to this proposed development. The consistent application of this policy is that only low density residential and community facilities development will be allowed access to a canopy road. The Summerfield PUD is clearly not low density residential. Therefore, road access to Old Bainbridge Rd. should not be allowed at the current proposed density. Because N. Monroe Street is at maximum concurrency already, access only to N. Monroe Street requires a significant reduction in the planned residential density.

5) Wetland Conversion/Alteration

There are many site constraints including a 3-acre natural wetland on the northern portion of the property. This wetland supports populations of several amphibian species (e.g., spadefoot toad) that live in the uplands but only breed in shallow, vegetated, fishless wetlands and, thus, are restricted to such habitats. White ibis and snowy egret (state-listed) and wood storks (Federally listed) are known to frequently forage in this wetland. Despite any minimal past agriculture, the presence of these species along with other wetland features demonstrates that this is an ecologically viable and functioning wetland and cannot be subject to more than 5% alteration under the EMA. Based on this designation, the wetland cannot be altered to construct the large stormwater holding pond as proposed by the applicant and implicit in their rezoning request.

Based in part on these comments, I am hopeful that Leon County denies the proposed zoning changes and concept plan approval. Any PUD for this property needs to respect the underlying land use categories and follow the EMA and the developer should be strongly encouraged to consider a more marketable and sensible approach to this development.

I would like to be notified when a final decision is reached so that I may appeal it should I disagree with the final disposition.

Sincerely,

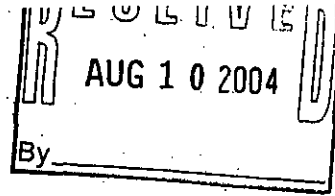


Matthew J. Aresco
754 Livingston Court
Tallahassee, FL 32303



TO BILL MCARD

Attachment # 9
Page 5 of 14



Leon County Growth and Environmental Management Department, Development Services Division:

I/We as owner(s) of Lot _____, Block _____, of the

MARK BEAUDOUIN

at the following street address:

4482 CAMDEN RD.

wish the following information to be considered by the Leon County Development Review Committee:

We are opposed to this rezoning due
to the density, land use and traffic
impacts. I would support single family
development with limited commercial
or retail. NO MULTI-FAMILY! The density
as proposed, will create significant traffic
problems particularly on Old Bairdridge
at Camden. This would be a very
hazardous intersection. Please work with

Mark Beaudouin
(Signature)

MARK BEAUDOUIN
(Print Name)

850-891-8382

the developer to
come up with
a more
acceptable
plan.

Thurs
M

Project Name: Summerfield PUD
DRC Review: August 4, 2004, 10:00 AM

Leon County Growth and Environmental Management Department, Development Services Division:

I/We as owner(s) of Lot _____, Block _____, of the

Greenwood Hills

at the following street address:

2017 Cynthia Dr

wish the following information to be considered by the Leon County Development Review Committee:

Traffic is so bad on N. Monroe now. Please consider
adding 2 lanes - one going North and one going South

Please be very careful of the environment. So many
turtles were killed when the lake drained. Please
continue to provide crossings for wildlife

April Thompson

(Signature)

April Thompson

(Print Name)

Project Name: Summerfield PUD

RC Review: August 4, 2004, 10:00 AM

appeal any decision made by the Leon County Commission or take exception to any findings of fact with respect to any matter considered at the hearings referred to above, you may need to ensure that verbatim record of the proceedings is made. Such a record shall include the testimony and evidence on which the appeal is to be based.

Attachment # 9
Page 7 of 14

The Florida Land Use and Environmental Dispute Resolution Act provides an opportunity for an owner of property who believes that a development order Per Chapter 163.3164, Florida Statutes, is unreasonable or unfairly burdens the use of his real property to apply for a special master proceeding. Owners of real property contiguous to the site will be provided a copy of any such request for a special master proceeding filed with the Planning Department. Any substantially affected party who submits oral or written testimony of a substantive nature which states with particularity objections to or support for any development order at issue may also receive a copy of any request filed under the Florida Land Use and Environmental Dispute Resolution Act by filing a written request for such copy with Cherie Bryant, Acting Chief Land Use/Current Planning Division, Planning Department, City Hall, 300 South Adams Street, Tallahassee, Florida 32301.

If you have a disability requiring accommodations, please call the Tallahassee-Leon County Planning Department at least forty-eight (48) hours (excluding weekends and holidays) prior to the hearing. The phone number for the Planning Department is (850) 891-8600. The phone number for the Florida Relay TDD Service is 1-800-955-8771.

The form below is for your convenience and may be returned to Adam Antony Biblo at the Tallahassee-Leon County Planning Department, City Hall, 300 South Adams Street, Tallahassee, Florida 32301; Telephone 891-8600; Fax 891-8734. We would appreciate receiving any information which would be useful to the Planning Commission and the Leon County Board of County Commissioners in their deliberations on this rezoning application.

PLANNING DEPARTMENT

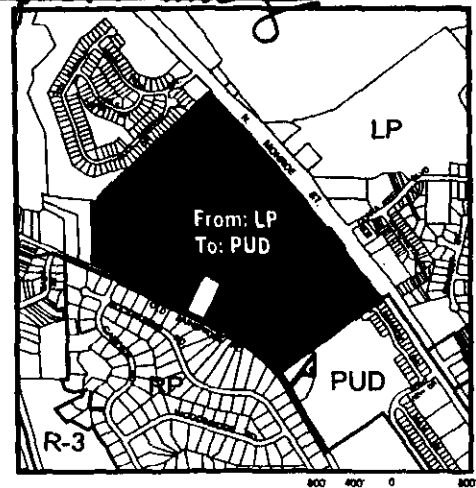
I/We as owner(s) of Lot 13, Block _____ of the LAKE SIDE (subdivision) _____

or street address: 4452 Cool Emerald DR wish the following information to be considered by the

Planning Commission and/or Board of County Commissioners: U.S. 27 NORTH IS NOW A congested roadway. I don't believe you can ingress the traffic by the amount of additional traffic this development will generate safely. Also of prime concern will be the damage to Lake Jackson by storm water runoff

SIGNED: Ralph W. Penley

General Location Map



RECEIVED
04 AUG 26 AM 8:09
TALLAHASSEE/LEON COUNTY
PLANNING DEPARTMENT

You are hereby notified in accordance with Chapter 286.0105, Florida Statutes, should you decide to appeal any decision made by the Leon County Commission or take exception to any findings of fact with respect to any matter considered at the hearings referred to above, you may need to ensure that verbatim record of the proceedings is made. Such a record shall include the testimony and evidence upon which the appeal is to be based.

The Florida Land Use and Environmental Dispute Resolution Act provides an opportunity for an owner of property who believes that a development order Per Chapter 163.3164, Florida Statutes, is unreasonable or unfairly burdens the use of his real property to apply for a special master proceeding. Owners of real property contiguous to the site will be provided a copy of any such request for a special master proceeding filed with the Planning Department. Any substantially affected party who submits oral or written testimony of a substantive nature which states with particularity objections to or support for any development order at issue may also receive a copy of any request filed under the Florida land Use and Environmental Dispute Resolution Act by filing a written request for such copy with Cherie Bryant, Acting Chief Land Use/Current Planning Division, Planning Department, City Hall, 300 South Adams Street, Tallahassee, Florida 32301.

If you have a disability requiring accommodations, please call the Tallahassee-Leon County Planning Department at least forty-eight (48) hours (excluding weekends and holidays) prior to the hearing. The phone number for the Planning Department is (850) 891-8600. The phone number for the Florida Relay TDD Service is 1-800-955-8771.

The form below is for your convenience and may be returned to Adam Antony Biblo at the Tallahassee-Leon County Planning Department, City Hall, 300 South Adams Street, Tallahassee, Florida 32301; Telephone 891-8600; Fax 891-8734. We would appreciate receiving any information which would be useful to the Planning Commission and the Leon County Board of County Commissioners in their deliberations on this rezoning application.

PLANNING DEPARTMENT

I/We as owner(s) of Lot _____, Block _____ of the _____ (subdivision) _____

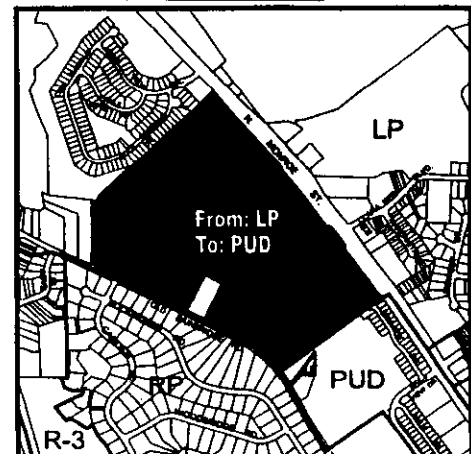
or street address: 4436 COOL EMERALD DR. wish the following information to be
considered by the 32303

Planning Commission and/or Board of County Commissioners: ① Please provide ADEQUATE
GREEN SPACE BETWEEN REAR OF HOMES ② DON'T ALLOW
WATER TO RUNOFF AND ACCUMULATE INTO OUR YARDS

SIGNED: Timothy A. Gans

General Location Map

RECEIVED
04 SEP - 2 PM 3: 25
TALLAHASSEE/LEON COUNTY
PLANNING DEPARTMENT



Biblo, Adam Antony

From: Matthew J. Aresco [aresco@bio.fsu.edu]
Sent: Tuesday, September 14, 2004 2:53 AM
To: "Tallahassee Leon County Planning Commissioners"
Cc: Tedder, Wayne; Biblo, Adam Antony; cpg1@comcast.net
Subject: Summerfield PUD - FDEP Wetland Violation Warning Letter

Dear Planning Commissioners,

Attached please see the PDF of a letter sent September 10, 2004 from FDEP to the owner of the property (Mary Sellars property) at 4910 N. Monroe Street - the location of the proposed Summerfield PUD.

This is a Warning Letter relating to an investigation of illegal, unpermitted dredge and fill alterations of a jurisdictional wetland to Lake Jackson that took place last fall just prior to their application for a zoning change (outlined in my previous letter to you). FDEP requires the owner enter into a Consent Order that will likely require corrective action including removal of a berm on the site and restoration of the jurisdictional wetland. Removal of the berm will restore the area as an open basin to Little Lake Jackson/Lake Jackson, with significant implications to the requested zoning change for Summerfield.

Following berm removal, all land in the northwest basin will again be subject to the limitations of the Lake Protection land use category and require that the Summerfield PUD Concept Plan be significantly changed in terms of both density and location of residential units in this basin, and location of required stormwater facilities (i.e., the wetland in this basin now cannot be used as a stormwater pond). The Concept Plan and application for zoning change from Lake Protection to Mixed Use A that is under development review for the Summerfield PUD is based on the assertion that the basin in question is legally closed to Lake Jackson. FDEP's letter (and NFWFMD's letter) clearly state that this is not a legal closed basin. Issuance of an after-the-fact permit is highly unlikely in this case. The US Army Corps will also be investigating these illegal activities.

As a result of these actions, I submit that you must either recommend denial of the Conceptual Plan and zoning change application for the Summerfield PUD or withdraw it from your agenda until such time as the legal issues surrounding this matter are resolved and the application has gone through the County development process again.

Thank you for your attention to this matter.

Matt Aresco

Matthew J. Aresco
 Department of Biological Science
 Florida State University
 Tallahassee, FL 32306-1100

(850) 562-3093
 aresco@bio.fsu.edu

Disclaimer. The views and opinions expressed in this email are strictly those of the author and in no way represent those of Florida State University, The Board of Trustees, nor the State of Florida.

Sep-13-2004 3:03PM

CFILOSVVRTJA1DMISSN

No. 0032 P. 2 PAGE 02

Attachment # 9
Page 11 of 14



Department of Environmental Protection

Jeff Bush
Governor

Tallahassee Branch Office
2815 Remington Green Circle, Suite A
Tallahassee, Florida 32308-1513

Colleen M. Casille
Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

September 10, 2004

WARNING LETTER
DF-CM-37-048

Ms. Mary Sellers
c/o Mr. C. C. Sellers
8179 Glenmore Drive
Tallahassee, Florida 32312

Dear Mr. Sellers:

An inspection of Ms. Sellers' property located along North Monroe Street, in Section 5, Township 1 North, Range 1 West, Latitude/Longitude, 30° 31' 10.02" North, 84° 21' 18.77" West, Leon County, indicates that you may be in violation of Chapters 373 and 403, Florida Statutes (F.S.), and the rules promulgated thereunder. On August 27 and 31, 2004, Craig McCammon observed that fill was placed in wetlands without prior authorization from the Department.

It is a violation of Rule 62-312.060(1), Florida Administrative Code, and Sections 403.161(1)(b) and Chapter 373, F.S., for construction and/or dredging and filling activities to be undertaken in wetlands or Waters of the State, without an appropriate and valid permit issued by the Department, or to fail to comply with any permit issued by the Department.

You are advised that activity of this type may contribute to violations of the above described statutes or rules and we request that you cease immediately. Continued dredging, filling or construction activities in wetlands or Waters of the State in violation of State statutes or rules may result in liability for damages and restoration pursuant to Sections 403.121, 403.141 and 403.161, and Chapter 373, F.S.

PLEASE BE ADVISED that this letter is preliminary to agency action in accordance with Section 120.57(4), F.S. In the event you fail to comply with the corrective measures outlined below, the Department may initiate an administrative action by issuing a Notice of Violation or by filing a judicial action in accordance with Chapters 373 and 403, F.S. If the Department issues a Notice of Violation, and you are named as a party, you will be informed of your rights to contest any determination made by the Department in the Notice of Violation.

"More Protection Less Process"

Protecting our natural resources

Sep. 13. 2004 3:04PM

OFILDSVWRTJA1DMMISSN

No. 0032 P 3 PAGE 03

Mary Sellers
DF-CM-37-048
Page 2

Attachment # 9
Page 12 of 14

You may resolve this matter by entering into a Consent Order requiring certain corrective actions including restoration of wetlands on the site. The Consent Order may include payment of a civil penalty and reimbursement of Department costs.

We look forward to your cooperation in resolution of this matter. Please contact Craig McCammon at (850) 488-3704, within 14 days of receipt of this letter regarding your intention to enter into the Consent Order addressing the alleged dredge and fill violation.

Sincerely,



Michael A. Hogan
Engineer

MAH/cem

cc: U. S. Army Corps of Engineers
Leon County Building Department
Kellie Scott, DEP Office of General Council
Randall Denker



Douglas E. Barr
Executive Director

Northwest Florida Water Management District

Division of Resource Regulation
152 Water Management Drive, Havana, Florida 32333-4711
(U.S. Highway 90, 10 miles west of Tallahassee)
(850) 539-5999 • (Suncom) 793-5999 • (Fax) 539-2777

Attachment # 9
Page 13 of 14

September 3, 2004

Mr. Tom Franklin
2815 Remington Green Circle Suite A
Tallahassee, FL 32308

Dear Sir;

An issue regarding a partial filling of a ditch/streambed draining to Little Lake Jackson has been brought to the attention of the District. A Chapter 373 and Chapter 403, Florida Statutes, agricultural determination has been requested by the FDEP. They asked if the described project met the requirements to be considered an agricultural activity. Numerous messages describing the situation as well as pre-and post aerial photos have been submitted. Based on a review of the available information, this activity is not normal and customary for agriculture and thus would not be considered as an agricultural activity.

The ditch of interest is located on what had historically been agriculture land. Filling the ditch halted the drainage of the farmland into Little Lake Jackson. The backfilling was ostensibly completed in 2003, but reported to the FDEP in August 2004. We understand that the activity occurred without a permit from any agency.

The owner reported to the County that they filled the ditch to prevent pesticides and herbicides from leaving the farm, although the District is unaware of this being documented as a problem for the site. Contrary to the original intent of the construction of the ditch in 1970's, the subsequent backfilling of the ditch reduces the amount of tillable lands. This action is not a normal agricultural practice.

Based on available information, the filling of the ditch appears to be a land development issue. The landowner has reportedly filed for a land use conversion with the County. (Summerfield PUD), clearly indicating the intended use of the property is residential development. Evidence suggests the filling of the ditch may increase the development potential of the land.

A predevelopment land altering activity on what was agricultural land is not a necessary normal and customary farming or forestry operation. See 403.927(3&4), Florida Statutes. Therefore the activity is not considered as agriculture, as per the above reference, and not within the regulatory jurisdiction of the NFWFMD. It should be noted, that even if the project was permitted as agriculture, a land use conversion would void the permit, and necessitate the removal of the fill and re-permitting by one or more other non-agricultural permitting agencies.

Sincerely,

Lance Laird, P.E., Chief
Bureau of Surface Water Regulation

JOYCE ESTES
Chair
Eastpoint

L. E. MCMULLIAN
Vice Chair
Sneads

STEPHANIE H. BLOYD
Secretary/Treasurer
Panama City Beach

LOIS BENSON
Pensacola

WAYNE BODIE
DeFuniak Springs

PAUL BRADSHAW
JAL_Laird@nwfwmd.com

HULAN CARTER
JAL_Laird@nwfwmd.com

SHARON T. GASKIN
Wowahitchka

RICHARD PETERMANN
Fort Walton Beach

September 15, 2004

To: Planning Department
Leon County
Adam Anthony Biblo

From: Bruce Ryan
1932 Queenswood Dr
Tallahassee, FL
536-0350



Re: Summerfield PUD zoning change request

Please accept my humble comments. I wish I could attend but children and business prevent me from attending.

I am concerned about this proposed zoning change. I think the proposed change of zoning from the current designated zoning to the PUD would be extreme and excessive. I am not against some development, but this would simply defy all reason.

The area is extremely sensitive and the county has already determined that much of it is as indicated on the Future Land Use map as Lake Protection and some of it for only minor residential. That is the plan, it was decided and agreed, and should NOT change now!

All the money and time Leon County spent on Lake Jackson, and the emphasis on Canopy Roads makes this proposed zoning change impossible to believe.

Those are the environmental concerns as I see it in a nutshell. Some other impacts to consider are Traffic, Density, Lake Pollution (septic), canopy road impacts, drive down property values in the area, cutting down trees in contradiction to the County's own ordinance.....etc.

Thank you for your time

Bruce